



BILLING CODE 754501

NATIONAL LABOR RELATIONS BOARD

Notice of an Amended Privacy Act System of Records; request for comment

AGENCY: National Labor Relations Board.

ACTION: Notice of an Amended Privacy Act System of Records; request for comment.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, the National Labor Relations Board (NLRB or Agency) publishes this notice of its intention to amend a system of records, NLRB-32, Freedom of Information Act Tracking System (FTS) and Associated Agency Files. All persons are advised that, in the absence of submitted comments considered by the Agency as warranting modification of the notice as here proposed, it is the intention of the Agency that the notice shall be effective upon expiration of the comment period without further action.

DATES: Written comments must be received on or before [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: All persons who desire to submit written comments for consideration by the Agency in connection with this proposed notice of the amended system of records shall mail them to the Agency's Senior Agency Official for Privacy, National Labor Relations Board, 1015 Half Street SE, Third Floor, Washington, DC 20570-0001, or submit them electronically to privacy@nrlb.gov. Comments may also be submitted electronically through <http://www.regulations.gov>, which contains a copy of this proposed notice and any submitted comments.

FOR FURTHER INFORMATION CONTACT: Virginia Ephraim, IT Security and Privacy Compliance Specialist, National Labor Relations Board, 1015 Half Street SE., Third Floor, Washington, DC 20570-0001, (202)-273-3733, privacy@nrlb.gov.

SUPPLEMENTARY INFORMATION:

This system of records, NLRB-32, was previously published on December 13, 2006 (71 Fed. Reg. 74941), along with eleven other systems of records. On July 16, 2007, pursuant to 5 U.S.C. 552a(k)(2), a Final Rule was published (72 Fed. Reg. 38778), exempting portions of this system of records from the following provisions of the Privacy Act: 5 U.S.C. 52a(d)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f), insofar as the system contains investigatory material compiled for law enforcement purposes. Specifically, the Final Rule for this system exempted information requested under the Freedom of Information Act, 5 U.S.C. 552, that relates to: the Agency's investigation of unfair labor practice charges and representation cases, requests to file injunctions under 29 U.S.C. 160(j), requests to initiate federal court contempt proceedings, certain requests that the Board initiate litigation or

intervene in non-Agency litigation, investigative subpoena enforcement cases, injunction and mandamus actions regarding Agency cases under investigation, bankruptcy case information in matters under investigation, Freedom of Information Act (FOIA) litigation, information involving investigatory records, and any other investigatory material compiled for law enforcement purposes.

As of August 1, 2017, this FTS system is a legacy system only. The Agency will continue retrieving information from the system when appropriate, but no additional information is being added to it. The Agency is using FOIAonline (<https://foiaonline.regulations.gov>), and a separate system of records notice is being published for that system, NLRB FOIAonline. FOIAonline is a system managed and used by the Environmental Protection Agency (EPA) and multiple partner agencies as a secure, password-protected Web site to electronically receive, process, track, and store requests from the public for federal records; post responsive records to a Web site; collect data for annual reporting requirements to the Department of Justice; and manage internal FOIA administration activities. The NLRB's FOIA information for requests made prior to fiscal year 2015 are maintained only in FTS, and information for requests made between fiscal year 2015 and July 31, 2017 are maintained in both systems.

SYSTEM NAME AND NUMBER:

Freedom of Information Act Tracking System (FTS) and Associated Agency Files. NLRB-32.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are stored on electronic media at Agency Headquarters, and any legacy paper files are stored at Headquarters and the Regional Offices, or in a Federal Records Center. See the Agency's Web site for addresses (www.nlr.gov). Records from limited numbers of FOIA requests involving large volumes of documents may also be stored in contractor-maintained electronic databases with document management capabilities. Additionally, pursuant to the Agency's flexiplace and telework programs, or due to official travel, FTS may also be accessed electronically from alternative worksites, including employees' homes. All appropriate safeguards will be taken at these sites.

SYSTEM MANAGER:

Assistant General Counsel/Freedom of Information Act Officer, FOIA Branch, National Labor Relations Board. The Agency's address is available on its Web site (www.nlr.gov).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552; 44 U.S.C. 3101.

PURPOSE(S):

FTS is a legacy electronic case tracking system used by the Agency's FOIA Branch to facilitate the accurate and timely collection, retrieval, and retention of information to track FOIA requests from the public for documents maintained by the Agency, as well as administrative appeals of Agency FOIA determinations. Beginning August 1, 2017, the Agency uses FOIAonline, an EPA-administered system used by that agency and multiple partner agencies as a secure, password-protected Web site to electronically receive, process, track, and store requests from the public for federal records; store responsive records; post responsive records to a Web site; collect data for quarterly and annual reporting requirements to the Department of Justice; and manage internal FOIA administration activities. The NLRB's FOIA information for requests made prior to fiscal year 2015 is maintained only in FTS and Associated Agency Files. The information and activities tracked by FTS may be generated by the parties' filing of FOIA requests, the issuance of initial FOIA determinations, the parties' filing of FOIA appeals, and the Agency's final determinations. FTS is used to track the processing of FOIA requests from initial receipt of requests through Agency determination on appeal, the nature of records sought, exemptions claimed by the Agency in initial determinations, processing time, and any fee charges. This database is also used to generate data for managing the Agency's resources, creating the Agency's budget, preparing monthly and annual reports of casehandling activities, and providing requested statistical reports to the public. The Associated Agency Files are paper files maintained to document FOIA requests and appeals, and electronic files maintained on the Agency's system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals making FOIA requests for documents maintained by the Agency and those requesters appealing initial Agency FOIA determinations ("FOIA appellants"); individual parties in Agency and related judicial proceedings named in FOIA requests; current and former Agency employees assigned to process FOIA requests and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Summary information of FOIA requests and appeals made to the Agency (such as requester contact information, assumption of fees information, request information, appeal information, and Agency personnel assigned to process FOIA requests) is maintained in FTS. Electronic documents associated with FOIA requests and appeals are maintained on an Agency network drive and are accessible through FTS.

(2) Associated Agency Files are paper and electronic records concerning the processing of initial FOIA requests to the Agency and appeals of those initial determinations. These records include administrative records (such as FOIA requests, initial Agency determinations, documents responsive to the FOIA requests, documents withheld from

FOIA requesters, final Agency determinations on appeal, and bills to the requesters for chargeable fees), correspondence, legal research memoranda, and other related documents. Both FTS and the Associated Agency Files may include FOIA requesters' and FOIA appellants' home addresses and home telephone numbers, if such information is provided to the Agency. Portions of these records include civil investigatory and law enforcement information contained in the requested documents at issue. As of June 2016, the Agency no longer created Associated Agency Files in paper form.

RECORDS SOURCE CATEGORIES:

For records not exempted under 5 U.S.C. 552a(k)(2) of the Privacy Act, record source categories include Agency employees processing FOIA requests, FOIA requesters and appellants, and documents relating to the processing of a FOIA request.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records may be disclosed:

1. to a federal, state, or local agency (including a bar association or other legal licensing authority), charged with the responsibility for investigating, defending, or pursuing violations of law or rule (civil, criminal, or regulatory in nature), in any case in which there is an indication of a violation or potential violation of law or rule;
2. to the Agency's legal representative, including the Department of Justice and other outside counsel, where the Agency is a party in litigation or has an interest in litigation, including when any of the following is a party to litigation or has an interest in such litigation: (a) the Agency, or any component thereof; (b) any employee of the Agency in his or her official capacity; (c) any employee of the Agency in her or her individual capacity, where the Department of Justice has agreed or is considering a request to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components;
3. to individuals who need the information in connection with the processing of an internal Agency grievance;
4. to an arbitrator to resolve disputes under a negotiated Agency grievance arbitration procedure;
5. to officials of labor organizations recognized under 5 U.S.C., chapter 71, when disclosure is not prohibited by law, and the data is normally maintained by the Agency in the regular course of business and is necessary for a full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining. The foregoing shall have the identical meaning as 5 U.S.C. 7114(b)(4);
6. to a member of Congress or to a congressional staff member in response to an inquiry

of the congressional office made at the request of the constituent about whom the records are maintained;

7. to FOIA requesters, when the Agency discloses requested documents under the circumstances of the Agency's discretionary release policy, set forth in the Agency's FOIA Manual (available on the Agency's Web site at www.nlr.gov);

8. to the following federal agencies: (a) the Office of Management and Budget in order to obtain advice regarding the Agency's obligations under the Privacy Act, or to assist with the Agency's budget requests; (b) the Department of Justice in order to obtain advice regarding the Agency's obligations under the Freedom of Information Act; or (c) the National Archives and Records Administration, in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906;

9. to contractors and other federal agencies, for the purpose of assisting the Agency in further development and continuing maintenance of electronic case tracking systems, or for assisting the Agency with electronic document management for purposes of responding to discovery, FOIA requests, or congressional inquiries;

10. to agencies of the United States Government, or to foreign or international law enforcement or administrative authorities, in order to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements in which the United States participates; and

11. to the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities under 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with the FOIA, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Data is maintained on paper and electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Data may be retrieved by individual names of those making FOIA requests and FOIA appeals to the Agency; names of parties in Agency or related judicial proceedings named in FOIA requests, names of current and former Agency employees assigned to cases; as well as by non-personal identifiers, such as case numbers assigned by the Agency.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

FTS information will be retained and disposed of in accordance with General Records Schedule 4.2, Item 020, which provides for destruction six years after final agency action, but longer retention is authorized if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper—Access to Agency working and storage areas is restricted to Agency employees who have a need to use the information in order to perform their duties, custodial personnel, and other contractor and security personnel. Associated Agency Files are maintained in lockable file cabinets in staffed or locked areas during working hours. The facilities are protected from unauthorized access during non-working hours by security personnel.

Electronic—Electronic system-based access controls are in place to prevent data misuse. Access to electronic information is controlled by administrators who determine users' authorized access based on each user's office and position within the Agency. Access criteria, procedures, controls, and responsibilities are documented and consistent with the policies stated in policies AC-1 "Information Security Access Control Policy" dated October 3, 2017 and IA-1 "Information Security Identification and Authentication Policy" dated September 8, 2017. All network users are also warned at the time of each network login that the system is for use by authorized users only, and that unauthorized or improper use is a violation of law. Agency employees may access FTS from alternative worksites but may not reproduce or transfer Agency information or documents to any system or equipment other than NLRB systems and NLRB-approved equipment.

RECORDS ACCESS PROCEDURES:

For records not exempted under 5 U.S.C. 552a(k)(2) of the Privacy Act, an individual seeking to gain access to records in this system pertaining to their own records should contact the System Manager in accordance with the procedures set forth in 29 C.F.R. 102.119(b)-(c).

CONTESTING RECORDS PROCEDURE:

For records not exempted under 5 U.S.C. 552a(k)(2) of the Privacy Act, an individual may request amendment of a record in this system pertaining to their own records by directing a request to the System Manager in accordance with the procedures set forth in 29 C.F.R. 102.119(d).

NOTIFICATION PROCEDURES:

For records not exempted under 5 U.S.C. 552a(k)(2) of the Privacy Act, an individual may inquire as to whether this system contains a record pertaining to such individual by directing a request to the System Manager in accordance with the procedures set forth in 29 C.F.R. §102.119(a).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(2), the Agency has exempted portions of this system, including investigatory material compiled for law enforcement purposes and requested under the FOIA, from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

HISTORY:

A notice of this system was previously published on December 13, 2006 (71 Fed. Reg. 74941).

Dated: Washington, DC, December 9, 2019.

By direction of the Board.

Roxanne L. Rothschild,
Executive Secretary.

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